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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,529	04/13/2001	Roger W. Ach III	LOTG / 32	4021
26875	7590	05/05/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			HOTALING, JOHN M	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 05/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/834,529

Applicant(s)

ACH, ROGER W.

Examiner

John M Hotaling II

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/25/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-85 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-85 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 discloses the "storing of a first score reflecting a first action of the participant in relation to a first game having" twice. The examiner thinks that the second recitation of this claim limitation is relative to a second score reflecting a second action and a second game. The claim will be examined with this in mind. Appropriate correction is required.

Claims 5, 6, 28, 29, 52, and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The above-mentioned claims compute the first score based on attributes different than that of a first game. It is unclear how a first score, which is related to a first game, can be affected by attributes not related to that game. The specification did not clarify the examiners understanding of the claim limitations.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3713

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-27, 30-51, 53, 55-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thacher et al in view of Walker et al US Patent 6,425,828. Thacher discloses in columns 1-2 that a tournament system in which people of widely varying skills can play different games of skill at diverse locations while participating in the same tournament. Columns 3, 4 and 8 disclose providing a plurality of scores for a plurality of games where scores are received at a central computer and then modified based on type of game and handicap values so that the scores can be compared and a winning score computed. Thacher lacks in disclosing that a player rating is dependent on a score achieved in two different games. Instead, column 10 discloses that the system clearly facilitates universal access to a tournament by players of varying skill, on different kinds of games, located in widely different locations. In an analogous invention to Walker an online tournament system where players can be ranked based on their performance playing the game in the tournament and that more than one game can be played during the tournament is disclosed. Walker discloses that rating systems are impossible to implement without a way to track a players progress over a number of games and handicap systems popular in golf games are similarly restricted in that the player results must be tracked over a series of games. See column 7 where player rating based on performance is disclosed. Ratings are numerical values that represent the skill of the player. Column 13 discloses several different methods of conducting a tournament such as several different game formats represented in a tournament or

game session, having competitors play the same game tournament or having the difficulty level of a game session adjusted. With respect to all of the claim element with the ranking relative to specific game performance please see above where it is disclosed that the ranking is relative to game performance, see also columns 9-12 where different games are disclosed and different performance criteria (length of play, score, etc) are established for each game. It would have been obvious at the time of the invention to combine the invention of Thatcher based on the motivation provided above that the system clearly facilitates universal access to a tournament by players of varying skill, on different kinds of games, located in widely different locations with the disclosure of Walker using a rating system to compare the scores of participating players using rating systems over a plurality of games and the games may be different.

Citation of Pertinent Prior Art

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following list of prior art is related to player tracking and performance rating systems over a variety of platforms of games and gaming equipment: Schneier et al '143, Costin, IV et al '128, Osaki et al '519, Walker et al '495, Rowe et al '834, Fertitta III et al '793, Lyon et al '312, Rowe '359, Miguel et al '397, Houriet, Jr. et al '021, Walker et al '486, Hoehne '776, Rasmussen et al '990, Weiss '377

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Hotaling II whose telephone number is 703 305 0780. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JOHN M. HOTALING, II
PRIMARY EXAMINER

April 28, 2004

